

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 93-258-T - ORDER NO. 94-864 ^{VC}
AUGUST 22, 1994

IN RE: Application of Larry Keith Crymes DBA)
Carolina Movers, 402 N. Markley Street,)
Greenville, SC 29601, for a Class E)
Certificate of Public Convenience and)
Necessity.)

ORDER
DENYING
APPLICATION

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Application of Larry Keith Crymes DBA Carolina Movers (the Applicant) for a Class E Certificate of Public Convenience and Necessity authorizing it to transport property as follows.

HOUSEHOLD GOODS, AS DEFINED IN R.103-211(14): Between points and places in South Carolina.

This Application was filed pursuant to S.C. Code Ann. §58-23-40 (1976), as amended.

Subsequent to the initiation of this proceeding, the Executive Director of the Commission instructed the Applicant to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the State of South Carolina. The Notice of Filing indicated the nature of the Application and advised all interested parties desiring to participate in the proceeding of the manner and time in which to file the appropriate pleadings. The Notice of Filing was duly published in accordance with the instructions of

the Executive Director. Petitions to Intervene were filed by Arrow Moving & Storage, Inc., Austin Moving & Storage, Co., Inc., Bland Moving & Storage Co., Inc., Carey Moving & Storage, Inc., Carey Moving & Storage of Greenville, Inc., Forest Hills Transfer & Storage, Inc., Greenville-Spartanburg Moving & Storage Co., Inc., Smith Dray Line & Storage Co., Inc., and Tru-Pak Moving Systems.

A public hearing was held at the offices of the Commission on August 10, 1994, with the Honorable Rudolph Mitchell presiding. The Applicant appeared pro se. John F. Beach, Esquire, represented the Intervenors as listed above. The Commission Staff was represented by F. David Butler, General Counsel.

Larry Keith Crymes testified on his own behalf. Jim Mullen testified on behalf of the Intervenors.

After full consideration of the Application, the testimony presented, and the applicable law, the Commission makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. South Carolina Code Ann. §58-23-330 (Supp. 1993) provides as follows:

[a]n applicant applying for a certificate ... to operate as a motor vehicle common carrier may be approved upon showing ... that the applicant is fit, willing, and able to perform appropriately the proposed service. If an intervenor shows or if the [C]ommission determines that the public convenience and necessity is being served already, the [C]ommission may deny the application.

2. 26 S.C. REGS. 103-134(1)(A)(1)(Supp. 1993) provides, in relevant part, that the Commission use the following criteria to determine whether an applicant is fit, willing, and able to provide

the requested service:

- (a) FIT The applicant must demonstrate or the Commission determine that the Applicant's safety rating is satisfactory. This can be obtained from U.S.D.O.T, SCDHPT, and PSC safety records. Applicants should also certify that there are no outstanding judgments pending against such applicant. The applicant should further certify that he is familiar with all statutes and regulations, including safety regulations, governing for-hire motor carrier operations in South Carolina and agrees to operate in compliance with these statutes and regulations.
- (b) ABLE The applicant should demonstrate that he has either purchased, leased, or otherwise arranged for obtaining necessary equipment to provide the service for which he is applying. The applicant should also provide evidence in the form of insurance policies or insurance quotes indicating that he is aware of the Commission's insurance requirements and the cost associated therewith.
- (c) WILLING Having met the requirements as to "fit and able", the submitting of the application for operating authority would be sufficient demonstration of the applicant's willingness to provide the authority sought.

3. The testimony of Larry Keith Crymes indicates that he has received a satisfactory safety rating and that there are no outstanding judgments against him. The financial information contained in the Application and the testimony from the hearing indicates that the Applicant is financially stable. The Application and the testimony reveal that the Applicant has the necessary equipment to provide the service for which it is applying, and that the Applicant is aware of the Commission's insurance requirements. Although the Application raised doubt as to Crymes' familiarity with the statutes and regulations of the

Commission governing for-hire motor carrier operations in South Carolina, the Application reveals that Crymes obtained a book with these statutes and regulations so that he could familiarize himself with them.

4. Crymes placed into the evidence a large exhibit containing his Better Business Bureau license, insurance information, evidence of safety inspections, a satisfactory safety rating, and a number of other documents. Crymes testified that he incorporated in late 1993, although subsequent cross-examination cast doubt on whether or not the Applicant ever actually incorporated.

5. Jim Mullen, Vice President of Smith Dray Line & Storage Co., Inc., testified on behalf of the Intervenor. Mullen testified that this company has presently been granted statewide authority for the movement of household goods by this Commission, and that he has 17 years experience in the moving business. Mullen testified that South Carolina has been inundated with competition in the last several years in the household goods moving business. Mullen testified that, in his opinion, the present movers with this type of authority can serve the public convenience and necessity. Mullen testified that Crymes equipment was old, and that his low insurance coverage made him a liability to the public.

CONCLUSIONS OF LAW

1. Although the Applicant has demonstrated that it is fit, willing, and able to provide the Class E service for which it seeks authority, this Commission holds that the public convenience and

necessity is being served already as per S.C. Code Ann. §58-23-330 (Supp. 1993). While we find that the Applicant possesses the necessary equipment, insurance coverage, safety rating, and other factors to be found fit, willing, and able, we believe that the Intervenor witness Mullen demonstrated that the public convenience and necessity is already being served. According to Mullen, South Carolina has been inundated with competition and there are sufficient household movers to serve whatever needs the public may have in this area.

2. Considering the Commission's findings and conclusions above, the Commission holds that the Intervenor's Motion to Dismiss the Application is moot.

IT IS THEREFORE ORDERED THAT:

1. The Application of Larry Keith Crymes DBA Carolina Movers for a Class E Certificate of Public Convenience and Necessity is hereby denied.

2. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)